

108TH CONGRESS  
1ST SESSION

# S. 760

To implement effective measures to stop trade in conflict diamonds, and  
for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 1, 2003

Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DEWINE, Mr. DURBIN, Mr. GREGG, Mr. BINGAMAN, Mr. FEINGOLD, Ms. SNOWE, Mr. ROCKEFELLER, Mr. SANTORUM, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To implement effective measures to stop trade in conflict  
diamonds, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Clean Diamond Trade  
5       Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) Funds derived from the sale of rough dia-  
9       monds are being used by rebels and state actors to

1 finance military activities, overthrow legitimate gov-  
2 ernments, subvert international efforts to promote  
3 peace and stability, and commit horrifying atrocities  
4 against unarmed civilians. During the past decade,  
5 more than 6,500,000 people from Sierra Leone, An-  
6 gola, and the Democratic Republic of the Congo  
7 have been driven from their homes by wars waged  
8 in large part for control of diamond mining areas.  
9 A million of these are refugees eking out a miserable  
10 existence in neighboring countries, and tens of thou-  
11 sands have fled to the United States. Approximately  
12 3,700,000 people have died during these wars.

13 (2) The countries caught in this fighting are  
14 home to nearly 70,000,000 people whose societies  
15 have been torn apart not only by fighting but also  
16 by terrible human rights violations.

17 (3) Human rights and humanitarian advocates,  
18 the diamond trade as represented by the World Dia-  
19 mond Council, and the United States Government  
20 have been working to block the trade in conflict dia-  
21 monds. Their efforts have helped to build a con-  
22 sensus that action is urgently needed to end the  
23 trade in conflict diamonds.

24 (4) The United Nations Security Council has  
25 acted at various times under chapter VII of the

1 Charter of the United Nations to address threats to  
2 international peace and security posed by conflicts  
3 linked to diamonds. Through these actions, it has  
4 prohibited all states from exporting weapons to cer-  
5 tain countries affected by such conflicts. It has fur-  
6 ther required all states to prohibit the direct and in-  
7 direct import of rough diamonds from Sierra Leone  
8 unless the diamonds are controlled under specified  
9 certificate of origin regimes and to prohibit abso-  
10 lutely the direct and indirect import of rough dia-  
11 monds from Liberia.

12 (5) In response, the United States implemented  
13 sanctions restricting the importation of rough dia-  
14 monds from Sierra Leone to those diamonds accom-  
15 panied by specified certificates of origin and fully  
16 prohibiting the importation of rough diamonds from  
17 Liberia. The United States is now taking further ac-  
18 tion against trade in conflict diamonds.

19 (6) Without effective action to eliminate trade  
20 in conflict diamonds, the trade in legitimate dia-  
21 monds faces the threat of a consumer backlash that  
22 could damage the economies of countries not in-  
23 volved in the trade in conflict diamonds and penalize  
24 members of the legitimate trade and the people they  
25 employ. To prevent that, South Africa and more

1       than 30 other countries are involved in working,  
2       through the “Kimberley Process”, toward devising a  
3       solution to this problem. As the consumer of a ma-  
4       jority of the world’s supply of diamonds, the United  
5       States has an obligation to help sever the link be-  
6       tween diamonds and conflict and press for imple-  
7       mentation of an effective solution.

8           (7) Failure to curtail the trade in conflict dia-  
9       monds or to differentiate between the trade in con-  
10      flict diamonds and the trade in legitimate diamonds  
11      could have a severe negative impact on the legiti-  
12      mate diamond trade in countries such as Botswana,  
13      Namibia, South Africa, and Tanzania.

14          (8) Initiatives of the United States seek to re-  
15      solve the regional conflicts in sub-Saharan Africa  
16      which facilitate the trade in conflict diamonds.

17          (9) The Interlaken Declaration on the Kim-  
18      berley Process Certification Scheme for Rough Dia-  
19      monds of November 5, 2002, states that Partici-  
20      pants will ensure that measures taken to implement  
21      the Kimberley Process Certification Scheme for  
22      Rough Diamonds will be consistent with inter-  
23      national trade rules.

24   **SEC. 3. DEFINITIONS.**

25       In this Act:

1           (1) CONTROLLED THROUGH THE KIMBERLEY  
2           PROCESS CERTIFICATION SCHEME.—An importation  
3           or exportation of rough diamonds is “controlled  
4           through the Kimberley Process Certification  
5           Scheme” if it is an importation from the territory of  
6           a Participant or exportation to the territory of a  
7           Participant of rough diamonds that is—

8                   (A) carried out in accordance with the  
9                   Kimberley Process Certification Scheme, as set  
10                  forth in regulations promulgated by the Presi-  
11                  dent; or

12                  (B) controlled under a system determined  
13                  by the President to meet substantially the  
14                  standards, practices, and procedures of the  
15                  Kimberley Process Certification Scheme.

16           (2) EXPORTING AUTHORITY.—The term “ex-  
17           porting authority” means 1 or more entities des-  
18           ignated by a Participant from whose territory a  
19           shipment of rough diamonds is being exported as  
20           having the authority to validate the Kimberley Proc-  
21           ess Certificate.

22           (3) IMPORTING AUTHORITY.—The term “im-  
23           porting authority” means 1 or more entities des-  
24           ignated by a Participant into whose territory a ship-  
25           ment of rough diamonds is imported as having the

1 authority to enforce the laws and regulations of the  
 2 Participant regulating imports, including the  
 3 verification of the Kimberley Process Certificate ac-  
 4 companying the shipment.

5 (4) KIMBERLEY PROCESS CERTIFICATE.—The  
 6 term “Kimberley Process Certificate” means a for-  
 7 gery resistant document of a Participant that dem-  
 8 onstrates that an importation or exportation of  
 9 rough diamonds has been controlled through the  
 10 Kimberley Process Certification Scheme and con-  
 11 tains the minimum elements set forth in Annex I of  
 12 the Kimberley Process Certification Scheme.

13 (5) KIMBERLEY PROCESS CERTIFICATION  
 14 SCHEME.—The term “Kimberley Process Certifi-  
 15 cation Scheme” means those standards, practices,  
 16 and procedures of the international certification  
 17 scheme for rough diamonds presented in the docu-  
 18 ment entitled “Kimberley Process Certification  
 19 Scheme” referred to in the Interlaken Declaration  
 20 on the Kimberley Process Certification Scheme for  
 21 Rough Diamonds of November 5, 2002.

22 (6) PARTICIPANT.—The term “Participant”  
 23 means a state, customs territory, or regional eco-  
 24 nomic integration organization identified by the Sec-  
 25 retary of State.

1           (7) PERSON.—The term “person” means an in-  
2       dividual or entity.

3           (8) ROUGH DIAMOND.—The term “rough dia-  
4       mond” means any diamond that is unworked or sim-  
5       ply sawn, cleaved, or bruted and classifiable under  
6       subheading 7102.10, 7102.21, or 7102.31 of the  
7       Harmonized Tariff Schedule of the United States.

8           (9) UNITED STATES.—The term “United  
9       States”, when used in the geographic sense, means  
10      the several States, the District of Columbia, and any  
11      commonwealth, territory, or possession of the United  
12      States.

13          (10) UNITED STATES PERSON.—The term  
14      “United States person” means—

15           (A) any United States citizen or any alien  
16           admitted for permanent residence into the  
17           United States;

18           (B) any entity organized under the laws of  
19           the United States or any jurisdiction within the  
20           United States (including its foreign branches);  
21           and

22           (C) any person in the United States.

1 **SEC. 4. MEASURES FOR THE IMPORTATION AND EXPOR-**  
2 **TATION OF ROUGH DIAMONDS.**

3 (a) PROHIBITION.—The President shall prohibit the  
4 importation into, or exportation from, the United States  
5 of any rough diamond, from whatever source, that has not  
6 been controlled through the Kimberley Process Certifi-  
7 cation Scheme.

8 (b) WAIVER.—The President may waive the require-  
9 ments set forth in subsection (a) with respect to a par-  
10 ticular country for periods of not more than 1 year each,  
11 if, with respect to each such waiver—

12 (1) the President determines and reports to  
13 Congress that such country is taking effective steps  
14 to implement the Kimberley Process Certification  
15 Scheme; or

16 (2) the President determines that the waiver is  
17 in the national interests of the United States, and  
18 reports such determination to Congress, together  
19 with the reasons therefor.

20 **SEC. 5. REGULATORY AND OTHER AUTHORITY.**

21 (a) IN GENERAL.—The President is authorized to  
22 and shall as necessary issue such proclamations, regula-  
23 tions, licenses, and orders, and conduct such investiga-  
24 tions, as may be necessary to carry out this Act.

25 (b) RECORDKEEPING.—Any United States person  
26 seeking to export from or import into the United States



1 any rough diamonds shall keep a full record of, in the form  
2 of reports or otherwise, complete information relating to  
3 any act or transaction to which any prohibition imposed  
4 under section 4(a) applies. The President may require  
5 such person to furnish such information under oath, in-  
6 cluding the production of books of account, records, con-  
7 tracts, letters, memoranda, or other papers, in the custody  
8 or control of such person.

9 (c) OVERSIGHT.—The President shall require the ap-  
10 propriate Government agency to conduct annual reviews  
11 of the standards, practices, and procedures of any entity  
12 in the United States that issues Kimberley Process Certifi-  
13 cates for the exportation from the United States of rough  
14 diamonds to determine whether such standards, practices,  
15 and procedures are in accordance with the Kimberley  
16 Process Certification Scheme. The President shall trans-  
17 mit to Congress a report on each annual review under this  
18 subsection.

19 **SEC. 6. IMPORTING AND EXPORTING AUTHORITIES.**

20 (a) IN THE UNITED STATES.—For purposes of this  
21 Act—

22 (1) the importing authority shall be the United  
23 States Bureau of Customs and Border Protection or,  
24 in the case of a territory or possession of the United

1 States with its own customs administration, analo-  
2 gous officials; and

3 (2) the exporting authority shall be the Bureau  
4 of the Census.

5 (b) OF OTHER COUNTRIES.—The Secretary of State  
6 shall publish in the Federal Register a list of all Partici-  
7 pants, and all exporting authorities and importing authori-  
8 ties of Participants. The Secretary shall update the list  
9 as necessary.

10 **SEC. 7. STATEMENT OF POLICY.**

11 Congress supports the policy that the President take  
12 appropriate steps to promote and facilitate the adoption  
13 by the international community of the Kimberley Process  
14 Certification Scheme implemented under this Act.

15 **SEC. 8. ENFORCEMENT.**

16 (a) IN GENERAL.—In addition to the enforcement  
17 provisions set forth in subsection (b)—

18 (1) a civil penalty of not to exceed \$10,000 may  
19 be imposed on any person who violates, or attempts  
20 to violate, any license, order, or regulation issued  
21 under this Act; and

22 (2) whoever willfully violates, or willfully at-  
23 tempts to violate, any license, order, or regulation  
24 issued under this Act shall, upon conviction, be fined  
25 not more than \$50,000, or, if a natural person, may

1 be imprisoned for not more than 10 years, or both;  
2 and any officer, director, or agent of any corporation  
3 who willfully participates in such violation may be  
4 punished by a like fine, imprisonment, or both.

5 (b) IMPORT VIOLATIONS.—The civil and criminal  
6 customs laws and penalties of the United States, includ-  
7 ing seizure and forfeiture, that apply to merchandise im-  
8 ported in violation of such laws shall apply with respect  
9 to rough diamonds imported in violation of this Act.

10 **SEC. 9. TECHNICAL ASSISTANCE.**

11 The President may direct the appropriate agencies of  
12 the United States Government to make available technical  
13 assistance to countries seeking to implement the Kim-  
14 berley Process Certification Scheme.

15 **SEC. 10. SENSE OF CONGRESS.**

16 (a) ONGOING PROCESS.—It is the sense of Congress  
17 that the Kimberley Process Certification Scheme, officially  
18 launched on January 1, 2003, is an ongoing process. The  
19 President should work with Participants to strengthen the  
20 Kimberley Process Certification Scheme through the adop-  
21 tion of measures for the sharing of statistics on the pro-  
22 duction of and trade in rough diamonds, and for moni-  
23 toring the effectiveness of the Kimberley Process Certifi-  
24 cation Scheme in stemming trade in diamonds the impor-

1 tation or exportation of which is not controlled through  
2 the Kimberley Process Certification Scheme.

3 (b) STATISTICS AND REPORTING.—It is the sense of  
4 Congress that under Annex III to the Kimberley Process  
5 Certification Scheme, Participants recognized that reliable  
6 and comparable data on the international trade in rough  
7 diamonds are an essential tool for the effective implemen-  
8 tation of the Kimberley Process Certification Scheme.  
9 Therefore, the executive branch should continue to—

10 (1) keep and publish statistics on imports and  
11 exports of rough diamonds under subheadings  
12 7102.10.00, 7102.21, and 7102.31.00 of the Har-  
13 monized Tariff Schedule of the United States;

14 (2) make these statistics available for analysis  
15 by interested parties and by Participants; and

16 (3) take a leadership role in negotiating a  
17 standardized methodology among Participants for  
18 reporting statistics on imports and exports of rough  
19 diamonds.

20 (c) KIMBERLEY PROCESS IMPLEMENTATION COORDI-  
21 NATING COMMITTEE.—It is the sense of Congress that the  
22 President should establish a Kimberley Process Implemen-  
23 tation Coordinating Committee to coordinate the imple-  
24 mentation of this Act. The Committee should be composed  
25 of the following individuals or their designee:

1           (1) The Secretary of the Treasury and the Sec-  
2       retary of State, who shall be co-chairpersons.

3           (2) The Secretary of Commerce.

4           (3) The United States Trade Representative.

5           (4) The Secretary of Homeland Security.

6           (5) A representative of any other agency the  
7       President deems appropriate.

8       **SEC. 11. REPORTS.**

9           (a) ANNUAL REPORTS.—Not later than 1 year after  
10      the date of enactment of this Act and every 12 months  
11      thereafter for such period as this Act is in effect, the  
12      President shall transmit to Congress a report—

13           (1) describing actions taken by countries that  
14      have exported rough diamonds to the United States  
15      during the preceding 12-month period to control the  
16      exportation of the diamonds through the Kimberley  
17      Process Certification Scheme;

18           (2) describing whether there is statistical infor-  
19      mation or other evidence that would indicate efforts  
20      to circumvent the Kimberley Process Certification  
21      Scheme, including cutting rough diamonds for the  
22      purpose of circumventing the Kimberley Process  
23      Certification Scheme; and

24           (3) identifying each country that, during the  
25      preceding 12-month period, exported rough dia-

1       monds to the United States and was exporting rough  
2       diamonds not controlled through the Kimberley  
3       Process Certification Scheme, if the failure to do so  
4       has significantly increased the likelihood that those  
5       diamonds not so controlled are being imported into  
6       the United States.

7       (b) SEMIANNUAL REPORTS.—For each country iden-  
8       tified in subsection (a)(2), the President, during such pe-  
9       riod as this Act is in effect, shall, every 6 months after  
10      the initial report in which the country was identified,  
11      transmit to Congress a report that explains what actions  
12      have been taken by the United States or such country  
13      since the previous report to ensure that diamonds the ex-  
14      portation of which was not controlled through the Kim-  
15      berley Process Certification Scheme are not being im-  
16      ported from that country into the United States. The re-  
17      quirement to issue a semiannual report with respect to a  
18      country under this subsection shall remain in effect until  
19      such time as the country is controlling the importation and  
20      exportation of rough diamonds through the Kimberley  
21      Process Certification Scheme.

22   **SEC. 12. GAO REPORT.**

23       Not later than 24 months after the effective date of  
24      this Act, the Comptroller General of the United States  
25      shall transmit a report to Congress on the effectiveness

1 of the provisions of this Act in preventing the importation  
2 or exportation of rough diamonds that is prohibited under  
3 section 4. The Comptroller General shall include in the  
4 report any recommendations on any modifications to this  
5 Act that may be necessary.

6 **SEC. 13. EFFECTIVE DATE.**

7 This Act shall take effect on the date on which the  
8 President certifies to Congress that—

9 (1) an applicable waiver that has been granted  
10 by the World Trade Organization is in effect; or

11 (2) an applicable decision in a resolution adopt-  
12 ed by the United Nations Security Council pursuant  
13 to Chapter VII of the Charter of the United Nations  
14 is in effect.

15 This Act shall thereafter remain in effect during those pe-  
16 riods in which, as certified by the President to Congress,  
17 an applicable waiver or decision referred to in paragraph  
18 (1) or (2) is in effect.

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